

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

Brian Keith Umphress,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 4:20-cv-00253-P
	§	
David C. Hall, et al.,	§	
	§	
Defendants.	§	

**DEFENDANTS' MOTION TO DISMISS OR TRANSFER,
BASED ON IMPROPER VENUE**

Defendants David C. Hall, Ronald E. Bunch, David M. Petronella, Darrick L. McGill, Sujeeth B. Draksharam, Ruben G. Reyes, Valerie Ertz, Frederick C. Tate, Steve Fischer, Janis Holt, M. Patrick Maguire and David Schenck, each of whom has been sued only in his or her official capacity as a Member of the State Commission on Judicial Conduct ("the Commission"), file this their Rule 12(b)(3) motion to dismiss or transfer, based on improper venue and would respectfully show:

1. Venue in this District is improper. Proper venue is in the Western District of Texas, which is both (i) the residence of each of these Texas officials in their official capacity and (ii) the district where all the alleged events or omissions

giving rise to Judge Umphress' claims occurred. Proper analysis looks to where Defendants' allegedly wrongful events or omissions occurred – not to where Judge Umphress perceives an impact from those allegedly wrongful acts.

2. As described in the certificate of conference below, this motion is opposed.

3. A brief supporting this motion and a declaration of Jacqueline R. Habersham (in the form specified under 28 U.S.C. § 1746(2)) are filed with this motion.

4. A proposed order is attached.

5. Defendants respectfully pray that this action be dismissed without prejudice, or alternatively that it be transferred to the Austin Division of the Western District of Texas. Defendants further pray for all other relief, at law or in equity, to which they may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I certify that on May 11, 2020, the undersigned conferred with Plaintiff's counsel Jonathan Mitchell. Mr. Mitchell advised that the motion is opposed. Plaintiff wishes the case to be heard in Fort Worth and believes that venue is proper in this Court. Defendants believe that proper venue does not lie in this Court and wish the case to be heard in Austin, where venue is proper.

/s/ John J. McKetta III
John J. McKetta III

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served upon the following on this 13th day of May, 2020, both (i) by filing it with the Court's electronic filing system and (ii) by email:

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